

**Montana Department  
of  
Fish, Wildlife & Parks**



1400 So. 19th  
Bozeman, MT 59715

August 1, 1996

**TO:** Governor's Office, Glenn Marx, Room 204, State Capitol, P.O. Box 200801, Helena, MT 59620-0801  
Environmental Quality Council, Capitol Building, Room 106, POB 201704, Helena, MT 59620-1704  
Dept. of Environmental Quality, Metcalf Building, POB 200901, Helena, MT 59620-0901  
Dept. of Fish, Wildlife & Parks  
Director's Office  
Parks Division  
Fisheries Division  
Wildlife Division  
Lands Section  
Legal Unit  
FWP Commissioners  
Montana Historical Society, State Historic Preservation Office, POB 201202, Helena, MT 59620-1202  
Montana State Library, 1515 E. Sixth Ave., POB 201800, Helena, MT 59620-1800  
Jim Jensen, MT Environmental Information Center, POB 1184, Helena, MT 59624  
Janet Ellis, Montana Audubon Council, POB 595, Helena, MT 59624  
George Ochenski, POB 689, Helena, MT 59624  
Lewis and Clark Co. Commissioners, POB 1724, Helena, MT 59624  
Dept. of State Lands, P.O. Box 201601, Helena, MT 59620

Ladies and Gentlemen:

You recently received documents relating to the Montana Fish, Wildlife & Parks' (FWP) proposal to purchase conservation easements on 10,867 acres of the Rattlesnake portion of the Sieben Ranch, 4,040 acres of the Lyons Creek portion of the Sieben Ranch, 4,154 acres of Lyons Creek owned by the O'Connell family, and fee title acquisition of 2,210 acres of the Mill Creek portion of the Sieben Ranch, north of Helena.

The draft documents you received were not substantially changed after a public review period. An attached modification page displays minor revisions to the easements and to the hunting season road map. Please consider your previous copies, along with these modifications, final.

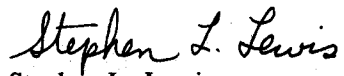
A number of comments were received regarding the Seiben/O'Connell easement and acquisition proposals. These comments are summarized in the enclosed **Decision Notice**. The comments indicate strong public support for the purchase of this easement. **It is my recommendation to purchase conservation easements on the Sieben Ranch Rattlesnake Creek property, Sieben Ranch Lyons Creek property, O'Connell Lyons Creek property, and Sieben Ranch Mill Creek Fee Title Acquisition, subject to approval by the FWP Commission.**

The FWP Commission will be asked to approve the purchase of this property at their regularly scheduled meeting on August 9, 1996.

If you have any further questions regarding this proposal, please call Region Three Headquarters at 994-4042.

Thank you very much for your interest and involvement.

Sincerely,

A handwritten signature in cursive script that reads "Stephen L. Lewis".

Stephen L. Lewis  
Regional Supervisor

## **DECISION NOTICE**

### **RATTLESNAKE (SIEBEN) AND LYONS CREEK (SIEBEN AND O'CONNELL) EASEMENT ACQUISITIONS & MILL CREEK FEE TITLE ACQUISITION (SIEBEN)**

**Prepared by Region 3, Montana Fish, Wildlife & Parks  
August 1, 1996**

#### **PROPOSAL**

The proposed action is for Montana Fish, Wildlife & Parks (FWP) to purchase and monitor conservation easements on the Rattlesnake (10,867 acres) and Lyons Creek (4,040 acres) portions of the Sieben Ranch, a conservation easement on the O'Connell property located in Lyons Creek (4,154 acres), and fee title acquisition of the Mill Creek portion (2,210 acres) of the Sieben Ranch. The easements and fee title acquisition would include habitat types on the ranch deemed important for protection for year long wildlife habitat, critical winter range and a key movement corridor for wildlife through central Montana. FWP would purchase the Rattlesnake Creek conservation easement for \$1,086,690, the combined Lyons Creek easements for \$819,834, and the Mill Creek Fee Title Acquisition for \$663,000, with funds from the Habitat Montana Program, which are derived primarily from non-resident hunting license fees. The Mill Creek property with conservation terms in place, would eventually be sold or exchanged.

The specific terms of the easements in their entirety are contained in separate legal documents which are the "Deed of Conservation Easement" for each parcel. These documents list FWP's and the landowners' rights under the terms of the easements as well as restrictions on landowners' activities. The rights of all parties and restrictions on some landowner activities were negotiated with and agreed to by all landowners. The intent of these rights and restrictions are to preserve important wildlife habitats in perpetuity while maintaining current and historic agricultural uses of these properties.

#### **MONTANA ENVIRONMENTAL POLICY ACT PROCESS**

FWP is required to assess impacts to the human and physical environment. The Sieben and O'Connell Easement and Sieben Fee Title Acquisition proposal and their effects were documented by FWP in an Environmental Assessment to satisfy the Montana Environmental Policy Act (MEPA).

A 35 day public comment period ran from June 21 through July 26, 1996. Public notices of the proposed action were run in area newspapers and a public hearing was held at the Colonial Inn in Helena on July 16, 1996. Approximately 250 copies of the Environmental Assessment were distributed to adjacent landowners, sportsman groups, and other interested parties. In addition, representatives from FWP met with the Lewis & Clark County Commission and Planner, Helena National Forest Supervisor, Prickly Pear Land Trust, Helena Chamber of Commerce, Prickly Pear Sportsmen's Association, and major landowners in the area to explain the proposal and answer questions.

The Department of Natural Resources and Conservation requested clarification of access on designated roads and access to neighboring land, which is included in the attached **Modifications to Environmental Assessment**. No other major issues were generated during the comment period. Revisions as described on the Modifications page were made, and per this notice appended to the Draft Environmental Assessment, which will therefore serve as the Final Environmental Assessment.

### **ISSUES RAISED IN THE ENVIRONMENTAL ASSESSMENT (EA)**

The EA lists the issues in detail. These include effects of the proposed conservation easements and fee title acquisition and potential consequences if easements and acquisition are not established on the Sieben and O'Connell properties. Lands immediately north, east, west, and south of the Sieben and O'Connell Ranches are being subdivided. This type of development is the greatest threat to wildlife movements and habitats and the public's use of the wildlife resource in this area.

Values on the O'Connell property and Sieben Ranch which would be protected in perpetuity by the conservation easement but might otherwise be threatened include: valuable wildlife habitat resources; public hunting access on the O'Connell property and Sieben Ranch which also provide access to adjacent public lands; aesthetic values; and traditional agricultural uses of the land. Easements would require additional monitoring by FWP including periodic inspections and meetings with the landowners but would have no impact on local tax revenues.

### **SUMMARY OF PUBLIC COMMENTS**

We received a total of 24 comments, including 17 written statements and eight oral testimonials. Twenty-one comments were favorable, two were neutral, two were opposed. Comments are summarized here.

## Comments

Twenty-one of the 25 written and oral comments were very supportive of the land proposal for the Sieben and O'Connell properties, including easements and fee title acquisition. Two correspondents were neutral; one inquired about their personal access situation, which would not be affected by this project and the other, the Montana Department of Natural Resources and Conservation inquired about access for commercialization of state lands. One adverse commentor questioned the equitability of the Habitat Montana program and how it intertwined with the Block Management program; another felt that elk numbers would be allowed to expand without limit and that there were too many limitations on the landowners.

The majority of comments specifically emphasized the importance of maintaining wildlife habitat values on the Sieben Ranch and in Lyons Creek. Nine comments applauded continuing public access on the Sieben Ranch and in Lyons Creek and thanked the landowners for their unique generosity. Ten comments commended all parties in this complex endeavor in their effort to preserve wildlife habitat. The importance of the wildlife movement corridor was stressed by four. Two comments related the importance of this project in maintaining the outdoor traditions and social fabric of the community. Three thanked the department and/or commission for their foresightedness, and one gave examples how this had paid off in the past in conservation of wildlife. The role this project plays in the historical perspective of sustaining a conservation ethic in Montana was stressed by two. The flexibility of the easements, maintaining the land in private ownership, and hunter access was the high point for the local land trust. Maintaining the wildlife diversity and landscape diversity of the area was stressed. One expressed amazement at what he considered a very reasonable price. Three expressed appreciation of the program's ability to preserve open space for wildlife habitat in the face of changing land use. The Lewis & Clark County Planner stated that the easements would meet the goals of the County Comprehensive Plan, and recommended certain language for future easements.

- One favorable commentor offered to research the mineral estate and commented upon the need to be able to explore for oil and gas. In response, it is noted that MFWP obtained a minerals report from a local title company prior to this EA, and access to explore for oil and gas is provided in the Conservation Easement in accordance with provisions of the Rocky Mountain Front Wildlife Monitoring and Evaluation Guidelines.
- Two supporters raised questions about the adequacy of Best Management Practices in relation to logging and cited cases of inadequate protection to soil and water quality. In response, the purpose of this easement is primarily to prevent subdivision and provide hunter access; timber management was negotiated and Best Management Practices (BMPs) were accepted by the landowner. Requiring BMPs as a term in the easements provides added impetus and credence to the enforceability of the logging practices prescribed in those guidelines.
- One supporter questioned the logic of being able to mutually benefit wildlife, water

quality and livestock if additional commercial timber harvest, road construction, and possible livestock grazing in Lyons Creek are allowed, given steep slopes and past activities. In response, there will be limits on livestock utilizing AUM caps, and elk based on the Elk Management Plan; there will be opportunities for MFWP to influence location of any new roads so that wildlife values will not be compromised. Timber harvest issues were previously addressed. If material impacts to wildlife were to occur, there may be remedial provisions provided through binding arbitration.

●One commentor felt the effectiveness of any easement terms would revolve around ethics of the landowners. In response, it is noted that good-faith efforts of all participants will be called upon as conservation easements across the state are continuously implemented.

### **Public Hearing**

A public hearing was held at the Colonial Inn in Helena on July 16, 1996. A total of 32 people attended of which 8 provided formal testimony. All of the testimony supported the proposals. Major points made during the testimonies were incorporated into the above summary.

Prior to formal testimony, FWP personnel presented information on the Sieben/O'Connell proposal. There were no questions following the presentations.

### **Additional Comments**

This proposal was presented by FWP at two meetings of the Lewis & Clark County Commission. The Commission voted to endorse the project. A presentation to the Chamber of Commerce was made. They voted to endorse the project.

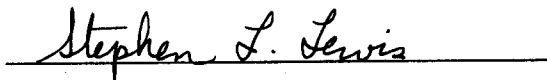
A meeting with the Montana Department of Natural Resources and Conservation was attended to address access concerns. The Central Lands Office of the Department of Natural Resources raised a concern over misinterpretation that may occur from the EA relative to road use. They requested that it be made clear that the roads depicted on the map (page 24 – see Modifications) are currently open to public use during the hunting season (T14N R5W SESE Section 16, and for ¼ mile in T14N R5W NWSec 14) as a feature of the Block Management program. Other roads designated for use during the hunting season shown on the map and depicted within the easement areas are open for public use during hunting season, but are not necessarily open during other times of the year. Vehicular access has been allowed during the hunting season on specified roads on DNRC lands with a recreational use license. It is expected that this arrangement will continue in the future. As a result of the DNRC concerns, language was added to the conservation easement that clarifies that the landowners are not precluded from granting access to neighboring lands consistent with the purpose of the easements.

## **DECISION**

**Utilizing the EA and public comment, a decision must be rendered by FWP which addresses the concerns and issues identified for these proposed easements and fee title acquisition.**

Given the choice, both FWP's analysis and public input strongly support preserving existing land use on the O'Connell property and Sieben Ranch over risking possible land use changes (e.g. residential development). All parcels contain a diversity of habitats, portion of an important wildlife movement corridor through central Montana, and support a unique mix of game and non-game wildlife species. A tradition of public hunting exists on both properties. All of these valuable resources may be threatened by land use changes which are presently occurring throughout Montana. Conservation Easements on Rattlesnake Creek and Lyons Creek and fee title acquisition of Mill Creek would guarantee and maintain in perpetuity, historical uses by wildlife, ranchers, and the public.

**After review of this proposal and the corresponding public support, it is my recommendation to purchase conservation easements on the Sieben Ranch and O'Connell property, and fee title acquisition of the Sieben Ranch's Mill Creek property, subject to approval by the FWP Commission.**

A handwritten signature in cursive script, reading "Stephen L. Lewis", is written over a horizontal line.

Stephen L. Lewis  
Regional Supervisor  
Bozeman, MT  
August 1, 1996





**MODIFICATIONS TO ENVIRONMENTAL ASSESSMENT & MANAGEMENT PLANS**  
*Rattlesnake Creek Conservation Easement*  
*Lyons Creek Conservation Easement*  
*Mill Creek Fee Title Acquisition*  
August 1, 1996

The following modifications have been made to the June 1996 Environmental Assessment (EA) and Management Plans. Please insert this modifications page into your copy of the EA.

**Land Description Change**

Forty acres (T.13 N., R.5 W., SESE20) is included in the southern portion of the Rattlesnake Conservation Easement as a result of a land trade with an adjacent landowner, wherein 40 acres approximately one mile west of the other parcel will be exchanged out (T.13 N., R.5 W., SESE19). Wildlife habitat values are essentially the same.

**Road Access**

**Roads Open for Hunter Use** (map on page 24 - see reverse side) is corrected to reflect roads open to the public on the specified private lands DURING HUNTING SEASON. Vehicle access on designated roads occurring on Department of Natural Resources and Conservation (DNRC) lands during the hunting season is currently allowed through the Block Management program. Users must possess a DNRC recreational use license. It is expected that this road access arrangement between DNRC, MFWP and the landowners will continue in the future.

**Correction**

Page 3 - Old: "Public access up Lyons Creek to Forest Service lands and the eastern and southern edge of the Sieben property exists from the Interstate 15 frontage road in the Wolf Creek canyon."

NEW: "Legal public access up Lyons Creek exists via a county road to the edge of Sieben Property at the east edge of Section 13, Township 14 North, Range 5 West, and possibly farther. At that point the public road may end. However during hunting season, vehicle access on the designated roads is provided through the conservation easements. As described above, vehicle access during the hunting season on DNRC lands is currently allowed through the Block Management program (if the user possesses a valid DNRC recreational use license). Although not permanent, this arrangement is expected to continue into the future."

**Lyons Creek Management Plan**

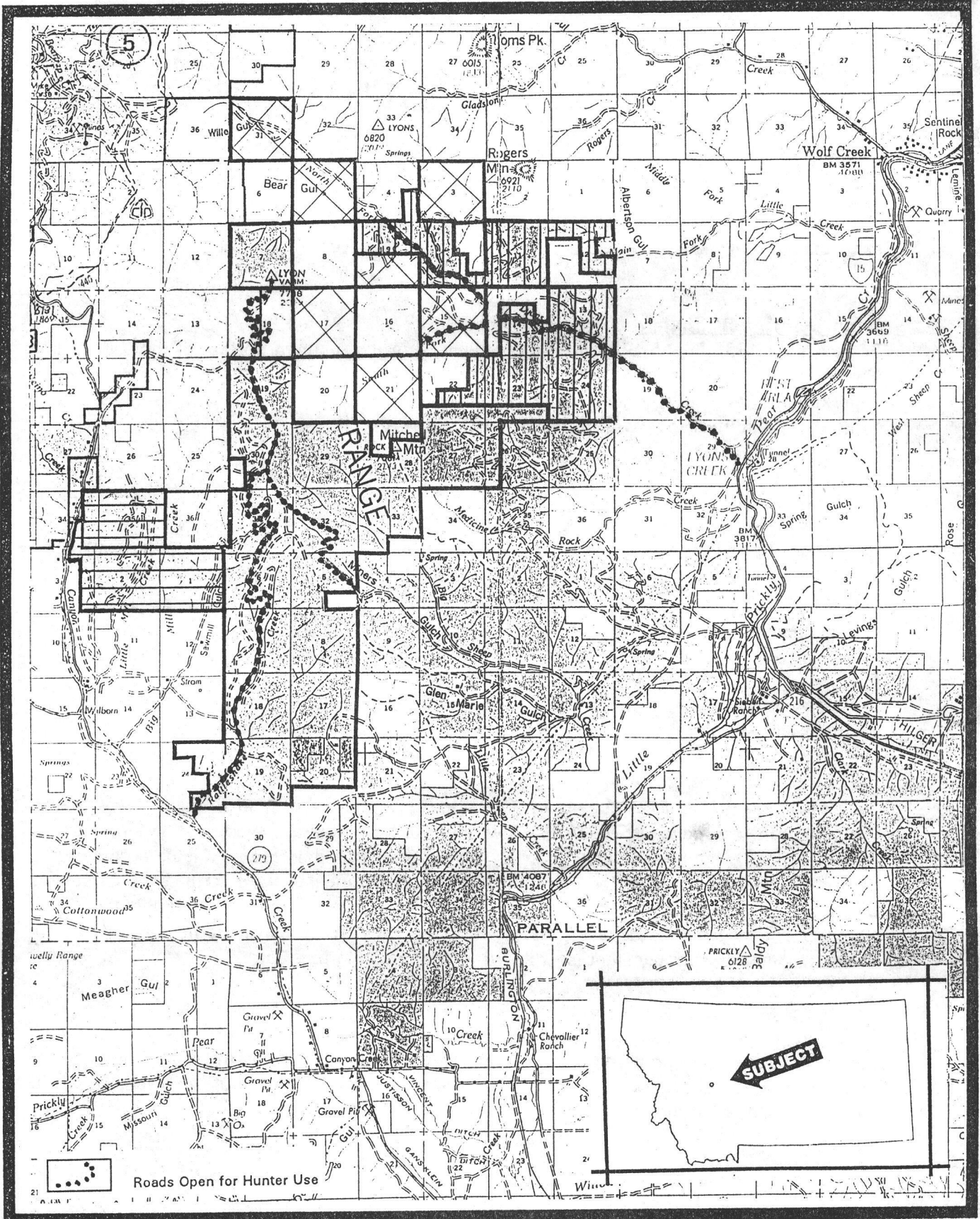
Page 1, para 3, last sentence, change to read: "A county road provides access to the eastern portion of the Sieben property. Access through the Lyons Creek easement areas is provided during hunting season; however, public access outside hunting season is at the discretion of the landowner subject to the terms of the easement."

# ROADS OPEN FOR HUNTER USE

T15N

T14N

T13N



R06W

R05W

R04W



Sieben Ranch (Rattlesnake Creek) Conservation Easement



Sieben Ranch Lyons Creek Conservation Easement



Sieben Ranch Mill Creek Fee Title Acquisition



O'Connell Ranch Lyons Creek Conservation Easement



Scale: 1/2" = 1 mile